

MONTANA TAVERN TIMES

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Whether it is a Calcutta based on a 4-H livestock contest, gerbil racing, or wagering on when a monument will break through the ice during a spring melt, we can see that Montanans are creative! Our division regularly receives calls, emails, and letters requesting an opinion on the legality of proposed gambling activities. Every proposition is analyzed in comparison to the related statutes and rules and an informal opinion is offered.

In a recent case, we became aware of a store that was selling bars of soap for \$10.00 each. If you are like me, you might think that is not a very good deal. Well, in addition to the use of the soap, each bar had money hidden within it. The amount varied between \$1.00 and \$50.00. Being that the soap itself was probably worth less than \$1.00, it seems clear anyone who purchased the soap was really paying for a chance to win cash.

The Montana Constitution has made clear that only those types of gambling and gambling activities that are specifically and clearly addressed and allowed are legal. If there is a gambling activity (i.e. has the three elements – consideration, chance, and reward) that is not addressed or not authorized in statute, it is prohibited.

In the soap case I described above, the activity meets the definition of gambling:

- Consideration – cost to purchase the soap.
- Chance – risking approximately \$9.00 (amount paid over what the soap is worth) for the opportunity to win up to \$50.00.
- Reward – cash prize of \$1.00 to \$50.00.

Because this store was offering to the public a gambling activity that is not authorized in statute, it was asked to remove the items from the shelf.

While wagering on the amount of cash contained in a bar of soap may seem like a relatively harmless activity, I used this light-hearted example to demonstrate the importance of 23-5-151, MCA “Except as specifically authorized by statute, all forms of public gambling, lotteries, and gift enterprises are prohibited.” Our division does not want to discourage creative gimmicks that will bolster your business or in some cases fund-raising activities, but it is important to review and be familiar with the statutes and rules when designing the activity. If you ever have a question about something you are considering, please contact our office.

For more information, please call our office at (406) 444-1971 or email gcd@mt.gov.

(References: Title 23, Chapter 5, MCA; 23.16-101 through 23.16.3801, ARM)